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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,456	03/25/2004	John B. McAdams	315-101P-WLK	4857

7590 05/27/2005

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EXAMINER

SUHOL, DMITRY

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,456

Applicant(s)

MCADAMS ET AL.

Examiner

Dmitry Suhol

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bail (GB 2184588) in view of Phelps '964. Bail discloses a Braille type device containing most of the elements of the claims including, at least one page (pages of documents described at page 1, line 130 through page 2, lines 1-4 and shown in figure 2) as required by claims 1 and 17, printed Braille type bar code (figure 3) as required by claims 1, 17 and 19. The support medium being a book, as required by claim 6, is described at page 2, lines 1-2. The Braille type bar code including multiple types of Braille type bar codes, as required by claim 16, is described at page 1, lines 122-129. A Braille type scanning device, as required by claims 17 and 18, is shown as the scanner in figure 1.

Phelps discloses a book which is usable by sighted people and visually impaired people which teaches that it is know to combine printed matter and Braille type code, as required by claims 1, 8-10 and 20, (i.e. text and picture in a book) along with Braille type code (figure 4) in a fashion such that both are supported by at least one medium (i.e. page). Therefore it would have been obvious to provide the pages of documents of Bail

Art Unit: 3725

with both the Braille type bar coding and other printed matter for the purpose of providing books which are usable by both sighted people and visually impaired people. Furthermore additional printed or displayed matter is considered to be a design choice since the applicants clearly state that their book may not have any additional printed matter (see applicants specification page 15, lines 15-20).

Regarding the dimensionality of the Braille bar code as required by claims 1, 11 and 15-17 and 19 (PDF 417 is a well know 2-D type bar code), it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention to have manufacture the bar codes of Bail as a two or three dimensional bar code for the purpose of holding varying amounts of information and since the examiner takes official notice that such bar code construction is well known in the art (for example, Ueno '750 clearly teaches the use of a 2-D barcode in a Braille type device). Furthermore, the specific bar code dimensionality is considered to be a design choice in that applicants disclose that the bar code used in their invention may be of any type desired (page 12, lines 12-14 and page 18, lines 6-8).

Regarding the positioning of the Braille type bar code, as required by claims 2-5, 7, 12-14, and the additional printed matter as required by claim 1. It would have been obvious to one having ordinary skill in the art at the time of the claimed invention to place the Braille type bar code in any location on the page since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of

Art Unit: 3725

patentability. *In re Gulack* 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of placement for the Braille code does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter (e.g. Braille bar code location or additional printed matter) and the substrate (support medium) which is required for patentability. Additionally the location of the placement of the Braille bar code is considered to be a design choice since applicants do not disclose any advantage or criticality for such placement and it would appear that the device would work equally well no matter the positioning of the bar code (see applicants specification page 15, lines 15-20).

Response to Arguments

Applicant's arguments filed March 7th, 2005 have been fully considered but they are not persuasive. Applicants argue that the barcode of Bail is not a two-dimensional matrix type bar code. In response the examiner points out that a two-dimensional matrix type bar code is well know and it would have been obvious to use depending on the amount of data storage required. Furthermore it is pointed out, as stated above, the applicants clearly do not put any criticality on the type of barcode utilized with their invention thus it is clear that applicants invention will work equally well with a one-dimensional barcode.

Art Unit: 3725

Applicants further argue that their claim 2 further distinguishes the claims due to its location in a side margin and configuration enabling reading from top to bottom. In response the examiner points out that applicants clearly disclose that there is no criticality to the exact positioning of the barcode, as stated above, and the invention would work equally well no matter the positioning and that *In re Gulack* makes it clear that positioning of the printed matter (in this case the bar code) in relation to the substrate (page) is not a patentable relationship although it may make it make convenient for the user to move a scanner along the page.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

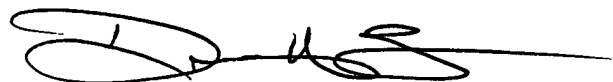
Art Unit: 3725

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430. The examiner can normally be reached on Mon - Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571)272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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